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COMMISSION ON HUMAN RIGHTS
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Agenda item 10

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

Written statement submitted by Centre Europe-Tiers Monde, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement, which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[10 March 1997]

Neoliberalism and trade union rights

Two examples taken from countries often presented as successful models, the Asian "dragons"

1. For nearly two decades now, neoliberal policies have dominated the international scene. Twenty years of "sacrifices" have been presented as "promises of a better tomorrow"; overall, 20 years of results have been the opposite, taking the world population as a whole, as numerous UNDP reports basically show. This picture is not, however, seen as one of unrelieved gloom. The extremely rapid "growth" of some "emerging" countries is regarded as proof of this: among them are the famous, old or more recent, "Asian dragons".

2. Yet even in these countries, the social impact of this "growth" has been highly uneven: the prodigious growth in the wealth of a tiny minority has indeed brought with it income improvements for a newly emerging middle class. And, to the great delight of the multinational companies, a not inconsiderable number of wage-earners have gained access to certain international consumer goods, often of a frivolous nature. But for the vast majority of workers improvements in wages, if any, have been rapidly eroded by inflation. Above all, the number of marginalized and rootless people, small farmers and craftsmen driven to bankruptcy, suburban populations living in destitution, performing degrading jobs, engaging in prostitution, etc. has skyrocketed. This is not to mention the indigenous populations in many countries, who have been decimated by the onrush of mining, forestry or tourism projects.

3. Admittedly, there seem to be substantial differences even within these "dragons". For any generalization there are always exceptions. However, there is one constant feature: virtually everywhere, this growth in trade and production, and integration into the world market, have often been accompanied by even more severe repression of the poor, attempts to muzzle the political opposition as soon as it puts up a fight, and a determination to prevent any emergence of truly independent trade union movements.

4. While there is no shortage of examples, 1/ the following paragraphs will place particular emphasis on the anti-trade-union repression rampant in two of these "dragons" - a relatively old one, South Korea, and a more recent one, Indonesia. These examples are in no way designed to demonize a particular government or local employer, when one of the dominant features of globalization today is the transnationalization of capital and the repetition of the same economic policies throughout the world. They serve to show that even in countries which boost the greatest "economic successes" - and thus, according to neoliberal propaganda, where progress towards democracy and civic freedoms should be the most marked - there is actually increased anti-trade-union and anti-democratic repression, a point already illustrated by the Thatcher era in England and the Reagan era in America.

5. One phenomenon appears to be the corollary of the other. If "liberalization" is accompanied by some democratic gestures which benefit only

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1/ Similarly, new "anti-terrorist" laws were promulgated by the Philippine Government, "which hold trade union activity to be a crime" (Monde du travail, ICFTU, January 1997); and a ban was maintained on independent trade unions in China - and even on any trade union presence within the "special zones". At a symposium held in Pisa from 1 to 3 October 1995, Apo Leong, Director of the Asia Monitor Resource Center in Hong Kong, stated: "Today is a national holiday in China. Forty-six years ago, Mao Tse-Tung rebelled and said 'the Chinese people stand tall'. Today, 46 years later, I have seen many Chinese fall, or feel obliged to get down on their knees before foreign leaders or Party officials, and I have seen them go through many other ordeals." (Extract from Sud-Nord: Nouvelles alliances pour la dignité du travail, CETIM, 1996).

a minority, for the great majority of citizens it entails curtailment of their actual rights. The citizen, the subject of democracy par excellence, is replaced by the consumer. The principle of equality is overshadowed by considerations of solvency. This is a kind of concealed wealth-based suffrage, a "low-intensity" democracy! Is this the sort of world that we want?

South Korea

6. One of the first "dragons", but without following a neoliberal model at the outset, South Korea has experienced remarkable economic development and has become a modern country: industry and services make up more than 90 per cent of its GDP, and agriculture only 7.1 per cent. "The South Korean trade union movement has been through very difficult times. A dictatorial regime imposed its rule until 1993. However, the workers in South Korea have shaken the military authorities through their actions since the beginning of the 1980s. In 1987, a formidable wave of strikes developed. It resulted in the creation of hundreds of combative trade unions in the main firms of the country" (C.A. Udry, in Le Nouveau Syndicat, January 1997).

7. The outcome was a trade union structure consisting of trade unions, established in certain giant companies, an official central trade union organization, the FKTU, which has 1.2 million members, and a more combative trade union, the KTCU (Korean Trade Union Confederation) which, despite having 500,000 members, is still illegal. The regime prohibits trade union pluralism and prevents any legal trade union activity from taking place within the public and education sector.

8. "After Kim Young-Sam elected Present [of South Korea] in 1993, the trade unions experienced a brief respite. But the President, formerly a member of the opposition, rapidly fell into the hands of the military hard-core major employers. Thus, dozens of trade unionists were in prison, before the strike was launched [in late December 1996]. Repression against trade union activists has once again become common since 1995" (ibid). What were the reasons for this strike, on a scale which shocked the entire world?

9. On 26 December 1996, the regime carried out a veritable parliamentary coup d'état in scandalous circumstances which were widely commented on in the press. This so-called parliament, to which only the members of the governmental party (PCN) had been summoned, adopted three measures:

- Promulgation of a new labour law, providing for dismissal facilities, the authorization to hire temporary staff in case of a strike, and maximum flexibility of working hours depending on orders;

- Adoption of decrees reinforcing the rights of the political police (National Security Agency) to watch and repress members of the opposition and, more especially, trade union activists;

- Deferral of legal recognition of trade union pluralism until the year 2002.

10. The consistent design of these measures - strongly resisted by an unprecedented wave of strikes and demonstrations - is obvious. The aim of the authorities is nothing less than to "break the power of the trade unions" in the name of competitiveness, as the Financial Times immediately described the situation on 9 January 1997. During this single day of 26 December, the process was completed. Behind its mask of democracy, the cruelty of the facts and objectives of neoliberalism were clearly revealed to the world, for those who are willing to see them.

Indonesia

11. Boasting one of the fastest growth rates in the world (6 to 7 per cent annual growth) and a model lavishly praised by the World Bank, Indonesia is perceived as one of the most promising apprentice "dragons" of South-East Asia, despite growing fears of unemployment, ever-increasing land disputes in rural areas and the havoc wrought on the "indigenous" peoples living on part of the islands, in particular Borneo.

12. Concurrently with economic liberalization, President Suharto had ordered a "political opening" in the early 1990s. He had assured the press in particular that there would "no longer be any censorship" and certain newspapers became more daring. This improvement did not last long: in June 1994, three of Indonesia's major weekly newspapers, Tempo (in existence for 23 years, circulation of 200,000), Editor (circulation of 90,000) and Detik (a rapidly expanding publication with a circulation of 450,000) were banned.

13. Two years later, and although the party in power, the Golkar, was already sure of winning the next elections, thanks to a tailor-made electoral system, it was the turn of one of the main opposition parties, the Indonesia Democratic Party (IDP) to be attacked. Ms. Megawarthi, daughter of the former President Sukarno, had become President of the IDP in December 1993. On 20 June 1996, during a very "extraordinary" congress meeting, she was ousted and replaced by its former President Mr. Surjadi. Even though the validity of this appointment seemed highly dubious to many observers, the authorities wasted no time in confirming it. There were numerous protests brutally suppressed in Jakarta. Some 30 NGOs then formed a group under the name of the Assembly of the Indonesian People (MARI) in order to lend their support to Ms. Megawarthi. She had "become more than the President of the IDP: she was the symbol of resistance to Mr. Suharto's regime and of the fight for freedoms. She remained moderate in her statements, but a daily open-ended forum was organized at the headquarters of the IDP where anyone who wanted could address a large and enthusiastic crowd". (Françoise Cayrac-Blanchard in Le Monde diplomatique, December 1996).

14. "On the morning of 27 July 1996, Mr. Surjadi besieged the building with the support of the forces of law and order. According to the findings of the investigation carried out by the National Human Rights Commission, 5 people were killed, 149 were injured and 23 went missing" (ibid). Extremely violent riots then broke out in Jakarta. After some hesitation, the army received orders to shoot on sight. The authorities blamed the events on "a small group of students" - the PRD or People's Democratic Party, which had been founded a few months earlier. Some 10 leaders of the PRD, several prominent figures

connected with NGOs, and former political prisoners were arrested and questioned. Among the people arrested was Muchtar Pakpahan, President of the SBSI (Indonesian Trade Union for Prosperity), an independent and hence illegal labour union, founded a few years earlier. Even though there was no basis for this arrest, it was by no means accidental.

15. The SBSI was founded on 5 April 1992 at an international symposium in which 106 delegates participated. "We have acted in accordance with our Constitution, which provides for freedom of association" Muchtar Pakpahan emphasizes. But since the authorities only allow a single official trade union the SBSI has remained forbidden and been forced to operate under cover. "Many of our activists have been arrested and even tortured" (Muchtar Pakpahan, in Sud-Nord, nouvelles alliances pour la dignité du travail, CETIM, 1996).

16. In June 1994, Muchtar Pakpahan had already been arrested once and sentenced to three years in prison - subsequently after an appeal, four years in prison - for incitement to violence following a peaceful but harshly suppressed demonstration, held at Medan a few months earlier in order to demand better working conditions. However, in May 1995, the Supreme Court released him under pressure from international trade unions. The persecution of the SBSI nevertheless continued. "I can tell you that every week a member of my organization is arrested by the military or by the police", Pakpahan testified in Pisa in October 1995 (ibid.). "Nevertheless, we will continue our fight to claim our freedom of association, in accordance with the provisions of our Constitution and with the conventions of the International Labour Organization (ILO). Our aim is to build a strong and free trade union, because there can be no well-being unless workers are free to act".

17. Following the events affecting the IDP, Muchtar Pakpahan was arrested again on 29 July 1996, and then put in solitary confinement on 2 August. He was charged with "subversion" and "illegal political activities" and was threatened with the death penalty, when according to the Indonesian National Human Right Commission "the Government and the security apparatus have interfered unduly in this case and have exceeded their role" and "these incidents are attributable to the Government's security policy". The Supreme Court, under political pressure, also declared applicable the four-year penalty to which he had previously been sentenced, whereas this had been formally anulled in May 1995. According to a judge of the same court, Adi Andojo Soetjipto, this was nothing less than a "political decision", since only the person convicted can appeal against a previous decision.

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COMMISSION ON HUMAN RIGHTS
Fifty-third session
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QUESTION OF THE REALIZATION IN ALL COUNTRIES OF THE ECONOMIC, SOCIAL AND CULTURAL RIGHTS CONTAINED IN THE UNIVERSAL DECLARATION OF HUMAN RIGHTS AND IN THE INTERNATIONAL COVENANT ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS, AND STUDY OF SPECIAL PROBLEMS WHICH THE DEVELOPING COUNTRIES FACE IN THEIR EFFORTS TO ACHIEVE THESE HUMAN RIGHTS

Written statement submitted by the International Organization for the Development of Freedom of Education, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1296 (XLIV).

[11 March 1997]

Report of the round table organized by the International Organization for the Development of Freedom of Education (OIDEL) and the World University Service (WUS) in collaboration with UNDP, the Inter-Parliamentary Union and the Centre for Human Rights on 10 and 12 April 1996 during the fifty-second session of the Commission on Human Rights

1. Prior to the meeting the organizers contacted the NGOs and government delegations that are most active in the promotion of economic, social and cultural rights, as well as academics, foundations and other organizations, to which they distributed a document on taking economic, social and cultural rights seriously. The round table was a follow-up to the meetings organized in 1995 by the High Commissioner for Human Rights and the Centre for Human Rights and to other informal meetings sponsored by WUS and OIDEL.

INTRODUCTORY STATEMENTS

I. Mr. Ibrahima Fall, Assistant-Secretary-General for Human Rights and Director of the Centre for Human Rights

2. After congratulating the organizers and reviewing how economic, social and cultural rights had developed, Mr. Fall said that the starting point for the round table had been a meeting in his office at the end of August attended by the various bodies working in that area: NGOs, governments and rapporteurs of the Sub-Commission on Human Rights.

3. He then made three series of proposals for advancing the work:

(a) Strengthen the efficacy of the International Covenant on Economic, Social and Cultural Rights;

(b) Promote cooperation between the institutions of the United Nations system;

(c) Conduct operational and practical activities.

4. A priority for strengthening the Covenant appeared to be to work towards the speedy adoption of an optional protocol providing for the consideration of communications. Such a protocol would inter alia permit the creation of a body of legal precedents that would be most useful for conceptualizing economic, social and cultural rights. There was also an urgent need for NGOs and academic circles to provide the Committee on Economic, Social and Cultural Rights with greater support in order to assist it in its work.

5. Cooperation between the institutions was required because of the urgency of the problems: hunger, extreme poverty, emergency situations. Only genuine collaboration between the institutions in the system, in particular the United Nations, UNDP, UNEP, ILO and WHO, would make it possible to tackle the world's problems in the area under consideration. The High Commissioner could define an institutional framework so as to ensure that all the institutions of the system had an awareness of the human rights dimension of their activities.

6. At the operational level there were four priorities:

(a) Respect for the Covenant was the primary responsibility of Governments, and a country's level of development could not be used as a pretext to justify shortcomings. The central problem of development was the poor distribution of the fruits of development, i.e. the inequalities in the distribution of income;

(b) Every effort should be made to ensure that States ratified the Covenant and submitted reports in good time to the Committee on Economic, Social and Cultural Rights, especially the States which "lectured" others;

(c) The NGOs for the development of human rights should coordinate their strategies, in particular through cooperation in the field;

(d) The NGOs should coordinate their work with UNDP in the field of indicators, demand that the country rapporteurs should also draw attention to violations of economic, social and cultural rights, and exert pressure to obtain more mandates on specific rights. In addition, it would be a good idea for the NGOs to follow more closely the work of the Economic and Social Council. High priority should be given to education in human rights, for that would enable people to claim their rights.

II. Mr. Ian McFarlane, responsible for liaison with the NGOs at the European headquarters of UNDP

7. Mr. McFarlane said that the activities of UNDP were concentrated on the promotion of human development, a task that it carried out primarily with Governments but also with other partners in the United Nations system and with the NGOs. Those activities contributed directly to the achievement of economic, social and cultural rights. The best specific example of the defence of economic, social and cultural rights at the international level was the Human development report, which was a tool for monitoring the basic economic, social and cultural rights such as access to education and health. UNDP was proposing to develop the use of that tool for such monitoring and also to work to increase the effectiveness of the great principles laid down in the action programmes formulated by major international conferences.

8. UNDP was currently responsible for following up the World Summit for Social Development held in Copenhagen, and was endeavouring to create a structure to assist Governments in implementing the plan of action. It would be appropriate for the NGOs attending the round table to become involved in the efforts of UNDP to find effective ways of using the existing international mechanisms for the protection of human rights. UNDP was interested in finding out what new steps could be taken in order to help achieve economic, social and cultural rights.

III. Mr. Martin Chungong, Secretary, Committee on Parliamentary, Juridical and Human Rights Questions of the Inter-Parliamentary Union

9. Mr. Chungong said that parliaments contributed to the protection of human rights at both the national and international levels. At the national level they could perform a standardizing function (in particular through their right to initiate legislation). Although that right was limited in practice, Parliament was able to encourage the initiation or revision of legislation aimed at providing better protection of human rights. It was also entitled to amend draft legislation submitted to it or to refuse to adopt legislation that imposed restrictions on existing rights. Moreover, Parliament could speed up the process of ratification of international instruments or the adoption of enabling legislation. It also had at its disposal a whole range of methods for monitoring and safeguarding the "traditional" human rights and also the rights of women and the rights of children, together with relations between citizens and government. Very often Parliament had its own body for the promotion and defence of human rights. It could support national institutions outside Parliament, particularly those with quasi-juridical authority (for the

consideration of complaints and the attainment of amicable settlements), thus reducing the workload of the courts. The support of Parliament for the NGOs working in the human rights field was essential.

10. At the international level, the role of Parliament was to contribute to respect for human rights in all countries, for it was quite legitimate for the international community to be concerned about respect for such rights. Parliament could also contribute to the development of international standards, thus improving the international consensus on human rights and freedoms. A number of basic conditions must be met if Parliament was to be able to carry out that role. Parliament must be representative of all sections of the nation. Furthermore, parliamentarians must have basic guarantees, in particular freedom of speech and immunities. They must be provided with material resources (logistic and financial).

11. The Inter-Parliamentary Union had its own Committee on the Human Rights of Parliamentarians, which, as its name indicated defended, parliamentarians whose rights were violated during the performance of their duties. Since the establishment of that Committee in 1976, action by the Union had led to the satisfactory settlement of many cases brought before it.

IV. Mr. Alexander Tikhonov, Secretary of the Committee on Economic, Social and Cultural Rights

12. Mr. Tikhonov stressed that his Committee was ideally placed to promote economic, social and cultural rights, for it was the sole United Nations body specializing in such rights. Moreover, it had recently been entrusted with the task of promoting the right to development. He described the possibilities of collaboration provided for NGOs by the Committee on Economic, Social and Cultural Rights.

13. NGOs could submit:

(a) Written communications concerning the countries whose reports were to be considered at each meeting;

(b) Oral communications on the first day of the Committee's session;

(c) Written or oral interventions on the days devoted to general discussion.

Moreover, NGOs could exchange views with the members of the Committee, who made a special effort to do so.

14. Mr. Tikhonov proposed the creation of a kind of platform around the Committee, bringing together the development NGOs and the human rights NGOs, to deal with economic, social and cultural rights. The main functions of such a platform would be:

(a) To serve as a meeting place for promoting an integrated approach to the protection of economic, social and cultural rights;

(b) To coordinate the work of the human rights NGOs and the development NGOs at the international level;

(c) To provide the necessary assistance for the national NGOs involved in activities to protect economic, social and cultural rights. Special attention should be paid to the adoption of an optional protocol granting the right to submit individual communications to the Committee on Economic, Social and Cultural Rights.

SUMMARY OF THE DISCUSSION

15. Mr. Fernandez drew attention to Mr. Fall's proposals, which represented a genuine working agenda for the group. At the proposal of Mr. Tikhonov and Mr. Harrison, it was decided to create a flexible structure, such as a forum, in view of the differences in the nature of the NGOs. That structure would be coordinated by Mr. Fernandez. The forum would permit progress with economic, social and cultural rights, but there was an urgent need to formulate some precise questions.

16. The importance of cooperation between institutions was emphasized. Happily it would henceforth be possible to count not only on the NGOs but also on the collaboration of the Centre for Human Rights, UNDP and the Inter-Parliamentary Union, teaching staff from the University of Geneva and other institutions such as the Observatoire de la Finance or the Fondation du Léman. Greater involvement of local bodies was advisable: the Agence Genevoise de Coopération, which grouped together 50 development organizations, the Institut universitaire d'Etudes de Devéloppement (IUED) and the Graduate Institute of International Studies.

17. At the suggestion of Ms. Murebwayire it was decided to concentrate on disseminating information about the Covenant and the Committee. Information could be sent out through the NGOs (for example, the Caritas Internationalis newsletter) or through publications such as those of the Non-Governmental Liaison Service (NGLS) or the International Council of Voluntary Agencies (ICVA). The group believed it would be most useful to introduce a page on the Internet devoted to economic, social and cultural rights and the right to development.

18. With regard to collaboration with academics, Mr. Tikhonov proposed that academics should be enabled to attend training courses at the Centre for Human Rights in working for the Committee. There was also a need to develop scientific instruments, especially indicators which were currently lacking: much work on them had already been done by the universities, NGOs, as described in the reports of D. Türk, and by UNDP and UNRISD. Some hard thinking was still needed to make them operational.

19. There was consensus on a number of priority points concerning contacts established and preliminary meetings:

(a) Conceptualization and precise legal formulation of economic, social and cultural rights;

(b) Involvement of international bodies and those working in the field;

(c) Seeking more prominence for economic, social and cultural rights on the agenda of the Commission;

(d) Collaboration with the Centre for Human Rights in the promotion of economic, social and cultural rights.

Three topics were considered to be of particular importance: (a) indicators; (b) the optional protocol, and (c) strengthening of the secretariat of the Committee on Economic, Social and Cultural Rights (funding and staff).

20. It was agreed to give priority to lobbying the Committee on Economic, Social and Cultural Rights to persuade it to adopt the draft optional protocol without delay. With regard to the strengthening of the Centre, it was decided to explore the possibility of someone seconded by the NGOs, and financed by the NGOs, the Centre and one or more Governments, assisting the Secretary of the Committee and taking on the task of coordination between the various bodies in the system. A start could be made on an experimental basis. The post could be made rotational, which would also be useful for the NGOs (it would give them a more thorough knowledge of the system).

21. It was also considered important to collaborate with Parliaments so as to ensure the effective implementation of economic, social and cultural rights and to enter into dialogue with the parliamentarians present at major meetings. There was a need to meet with parliamentarians in order to open their eyes to economic, social and cultural rights by showing them the work of UNDP.

22. The group felt it was important to deal with economic, social and cultural rights and the right to development together. For this purpose it would be useful to work towards expanding the International Bill of Human Rights (Universal Declaration of Human Rights and the Covenants) by including the Declaration on the Right to Development, which represented the distillation of the work carried out within the United Nations in the human rights field. Lastly, the participants decided to form a coordinating group in order to contact other NGOs and institutions. For the immediate future the group would work on preparations for the next meeting of the Committee on Economic, Social and Cultural Rights, especially the meetings devoted to hearings of NGOs.